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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,958	10/23/2003	Michael S. South	PHA 4161.36 (3201/1A)	3471

321 7590 09/18/2006

SENNIGER POWERS
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS, MO 63102

EXAMINER

TUCKER, ZACHARY C

ART UNIT	PAPER NUMBER
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1624

DATE MAILED: 09/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/691,958	SOUTH ET AL.	
	Examiner	Art Unit	
	Zachary C. Tucker	1624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-50 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Requirement for Restriction

Restriction to one of the following inventions is required under 35 U.S.C. 121. This Requirement for Restriction supercedes all other such Requirements issued in the parent case(s) to the instant application:

- I. Claims 1, 2, 9-16 and 33-50, drawn to compounds of the formulae depicted in claims 1 and 33, wherein B is formula (V) or an aryl or heteroaryl group, classified in class/subclass 544/106, their compositions and methods of use.
- II. Claims 3-8, 17-24 and 33-50, drawn to compounds of the formulae depicted in claims 1 and 33, wherein the variable "B" is selected from acyclic moieties recited in the claims, classified in class/subclass 544/406, their compositions and methods of use.
- III. Claims 25-50, drawn to drawn to compounds of the formulae depicted in claims 1 and 33, wherein the variable "B" is selected from cycloalkyl groups and saturated heterocyclic groups, classified in class/subclass 544/357, their compositions and methods of use.

The inventions are distinct, each from the other, because of the following reasons. Groups I-III represent dissimilar chemical compounds such that the variables defining "B," "Q" and "Y⁰" of the formulae do not belong to a recognized class of chemical compounds in the art, and (a) reference(s) anticipating one invention would not necessarily anticipate or render obvious any of the others. Pyrazine *per se*, is old so that its varying substituent of the pyrazine ring controls the classification. Thus, separate searches in the chemical literature as well as the U.S.

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Patent classification system would be required. Each Group's compounds are made and used independently of one another and could support separate patents. One skilled in the chemical arts would not consider the compounds as grouped hereinabove in I, II and III as functional equivalents of one another. There mere fact that there is a single similarity is not in itself enough of a reason to render the whole embodiment obvious.

Applicants is advised that a reply to this Requirement to be complete must include an election of the invention to be examined even though it be traversed (37 C.F.R. 1.143).

If one Group is elected, further restriction may be required by the examiner.

Tentative election of a single species with the elected Group is further required.

Specification

The disclosure is objected to because of the following informalities: No continuity data is incorporated at the first page of the specification, as required under 37 C.F.R 1.78(a)(1)(iv)(i). This application is a continuation of application serial number 09/574,752, now US Patent 6,664,255.

Appropriate correction is required.

Conclusion

All Post-Allowance Correspondence concerning this application must be mailed to:
Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Or you can fax them to the Office of Patent Publications at 703-872-9306, in order to expedite the handling of such correspondence as amendments under 37 CFR 1.312; information disclosure statements, and formal drawings. Sending Post-Allowance papers to Technology Center 1600 will only cause delays in matching papers with the case.

For information concerning status of correspondence sent after receipt of the Notice of Allowance, please contact the Correspondence Branch at (703) 305-8027. The Notice

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of Allowance also has an insert containing contact information on other items, including Issue Fees, receipt of formal drawings and the status of the application.

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A handwritten signature in black ink, appearing to be "Z. On" followed by a long horizontal stroke.